An act to amend Section 3213 of, and to add Article 3 (commencing with Section 3150) to Chapter 1 of Division 3 of, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

AB 7, as introduced, Wieckowski. Oil and gas: hydraulic fracturing.

Under existing law, the Division of Oil, Gas, and Geothermal Resources (DOGGR) in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor supervises the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities related to oil and gas production within an oil and gas field regarding safety and environmental damage. Existing law requires an operator of a well, before commencing the work of drilling the well, to obtain approval from the State Oil and Gas Supervisor or a district deputy. Existing law requires the operator of a well to keep, or cause to be kept, a careful and accurate log, core record, and history of the drilling of the well. Within 60 days after the date of cessation of drilling, rework, or abandonment operations, the owner or operator is required to file with the district deputy certain information, including the history of work performed.

This bill would define, among other things, hydraulic fracturing and hydraulic fracturing fluid. The bill would require an operator of a well to record and include all data on hydraulic fracturing treatment,
including the risk posed by potential seismicity, as a part of the history
of the drilling of the well. The bill would require DOGGR, in
consultation with the Department of Toxic Substances Control, the State
Air Resources Board, and the State Water Resources Control Board,
on or before January 1, 2014, to adopt rules and regulations specific to
hydraulic fracturing, including governing the construction of wells and
well casings and full disclosure of the composition and disposition of
hydraulic fracturing. The bill would require an operator to file with the
supervisor or a district deputy, at least 30 days prior to the
commencement of a hydraulic fracturing treatment, a notice of intention
to commence hydraulic fracturing treatment containing specified
information. The bill would require the hydraulic fracturing to be
completed within one year of the filing of the notice of intention. The
bill would require DOGGR, within 10 days of the receipt of the notice
of intention, to make the notice publicly available, to post it on the
division’s Internet Web site, and to notify the appropriate regional water
quality control board. The bill would require the supplier, as defined,
of the hydraulic fracturing treatment to provide to the operator, within
30 days following the conclusion of the hydraulic fracturing, certain
information regarding the hydraulic fracturing fluid. The bill would
require the operator, within 60 days of the cessation of hydraulic
fracturing treatment, to post or cause to have posted on an Internet Web
site accessible to the public specified information on the fracturing and
fluid, as specified. The bill would require a supplier claiming trade
secret protection for the chemical composition of additives used in the
hydraulic treatment to disclose the composition to DOGGR, but would,
except as specified, prohibit those with access to the trade secret to
disclose it, and a person who violates this prohibition would be guilty
of a misdemeanor. Because this bill would create a new crime, it would
impose a state-mandated local program.

This bill would require the supervisor, on or before January 1, 2016,
and annually thereafter, to transmit to the Legislature and make available
publicly a comprehensive report on hydraulic fracturing in the
exploration and production of oil and gas resources in the state.

The California Constitution requires the state to reimburse local
agencies and school districts for certain costs mandated by the state.
Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act
for a specified reason.
The people of the State of California do enact as follows:

SECTION 1. Article 3 (commencing with Section 3150) is added to Chapter 1 of Division 3 of the Public Resources Code, to read:

Article 3. Hydraulic Fracturing

3150. “Additive” means a substance or combination of substances added to a base fluid for purposes of preparing a hydraulic fracturing fluid. An additive may, but is not required to, serve additional purposes beyond the transmission of hydraulic pressure to the geologic formation. An additive may be of any phase and includes proppants.

3151. “Base fluid” means the continuous phase fluid used in the makeup of a hydraulic fracturing fluid. The continuous phase fluid may include, but is not limited to, water, and may be a liquid or a gas.

3152. “Carrier fluid” means a base fluid into which additives are mixed to form a hydraulic fracturing fluid.

3153. “Hydraulic fracturing” means a treatment used in stimulating a well that involves the pressurized injection of hydraulic fracturing fluid and proppants into an underground geologic formation in order to fracture the formation, thereby causing or enhancing, for the purposes of this division, the production of oil or gas from a well.

3154. “Hydraulic fracturing fluid” means a carrier fluid mixed with physical and chemical additives for the purpose of hydraulic fracturing. A hydraulic fracturing treatment may include more than one hydraulic fracturing fluid.

3155. “Proppants” means materials inserted or injected into the underground geologic formation that are intended to prevent fractures from closing.

3156. “Supplier” means an entity performing hydraulic fracturing or an entity supplying an additive or proppant directly to the operator for use in hydraulic fracturing.
3157. (a) The Legislature finds and declares that hydraulic fracturing of oil and gas wells in combination with technological advances in oil and gas well drilling are spurring oil and gas extraction, as well as oil and gas exploration, in California.

(b) (1) On or before January 1, 2014, the division, in consultation with the Department of Toxic Substances Control, the State Air Resources Board, and the State Water Resources Control Board, shall adopt rules and regulations specific to hydraulic fracturing. The rules and regulations shall include, but are not limited to, revisions, as needed, to the rules and regulations governing construction of wells and well casings to ensure integrity of wells, well casings, and the geologic and hydrologic isolation of the oil and gas formation during and following hydraulic fracturing, and full disclosure of the composition and disposition of hydraulic fracturing fluids.

(2) Full disclosure of the composition and disposition of hydraulic fracturing fluids shall, at a minimum, include:

(A) The date of the hydraulic fracturing.

(B) A complete list of the names, Chemical Abstract Service (CAS) numbers, and maximum concentration, in percent by mass, of each and every chemical constituent of the hydraulic fracturing fluids used. If a CAS number does not exist for a chemical constituent, the well owner or operator may provide another unique identifier, if available. Chemical information claimed as a trade secret, pursuant to subdivision (h), shall be identified as such and reported as described in subdivision (h).

(C) The trade name, the supplier, and a brief description of the intended purpose of each additive contained in the hydraulic fracturing fluid.

(D) The total volume of carrier fluid used during hydraulic fracturing, and the identification of whether the carrier fluid is water suitable for irrigation or domestic purposes, water not suitable for irrigation or domestic purposes, or a fluid other than water.

(E) The total volume of base fluid, if not reported as a carrier fluid, used during hydraulic fracturing, and the identification of whether the base fluid is water suitable for irrigation or domestic purposes, water not suitable for irrigation or domestic purposes, or a fluid other than water.
(F) The source, volume, and disposition of all water, including, but not limited to, all water used as base and carrier fluids, used during hydraulic fracturing and recovered from the well following hydraulic fracturing that is not otherwise reported as produced water pursuant to Section 3227.

(G) The disposition of all hydraulic fracturing fluids other than water.

(H) Any radiological components or tracers injected into the well as part of the hydraulic fracturing process, a description of the recovery method, if any, for those components or tracers, the amount recovered, if any, and the disposal method for recovered components or tracers.

(I) The radioactivity of the recovered hydraulic fracturing fluids.

(J) The location of the portion of the well subject to the hydraulic fracturing treatment and the extent of the fracturing surrounding the well induced by the treatment using the methodology determined by the division.

(c) (1) Notwithstanding any other law or regulation, at least 30 days prior to commencing a hydraulic fracturing treatment on a well, the operator shall file a written notice of intention to commence the hydraulic fracturing treatment with the supervisor or district deputy. The notice shall contain the pertinent data the supervisor requires on printed forms supplied by the division or on other forms acceptable to the supervisor. The hydraulic fracturing treatment shall be completed within one year of filing the notice of intention. The information provided in the notice shall include, but is not limited to, the following:

(A) The well identification number and location.

(B) The time period during which the hydraulic fracturing treatment is planned to occur.

(2) Within 10 days of receipt of the notice of intention, the division shall make the notice of intention publicly available, post it on the publicly accessible portion of the division’s Internet Web site, and notify the appropriate regional water quality control board or boards as determined by where the well, including its subsurface portion, is located.

(3) The operator shall provide notice to the division 72 hours prior to the actual start of the hydraulic fracturing treatment in order for the division to witness the treatment.
(d) If hydraulic fracturing is performed on a well, a supplier that performs any part of hydraulic fracturing or provides additives directly to the operator for hydraulic fracturing shall furnish the operator with information needed for the operator to comply with subdivision (e). If a supplier claims trade secret protection pursuant to subdivision (h), the supplier shall notify the operator and provide to the operator substitute information, as described in subdivision (h), suitable for public disclosure. This information shall be accurate and shall be provided as soon as possible but no later than 30 days following the conclusion of the hydraulic fracturing.

(e) (1) Within 60 days following cessation of hydraulic fracturing on a well, the operator shall post or cause to have posted to an Internet Web site designated or maintained by the division and accessible to the public, all of the hydraulic fracturing fluid composition and disposition information required to be collected pursuant to rules and regulations adopted under subdivision (b), including well identification number and location.

(2) The division may designate a publicly accessible Internet Web site, developed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission for the posting of the data pursuant to paragraph (1), if all of the following requirements are met by January 1, 2015:

(A) The information is organized on that Internet Web site in a format such as a spreadsheet that allows the public to easily search and aggregate, to the extent practicable, each type of information required to be collected pursuant to subdivision (b) using search functions on that Internet Web site.

(B) The Internet Web site permits any person to export, copy, or otherwise obtain in electronic format the data submitted pursuant to subdivision (b) from that Internet Web site. Once obtained, there shall be no restrictions on the possession or further distribution, modification, transmission, or reproduction of any information submitted pursuant to this section in any form and by any means and no prior authorization shall be required.

(3) If an Internet Web site is not designated by the division pursuant to paragraph (2), the division shall maintain a publicly accessible Internet Web site, in compliance with subparagraphs (A) and (B) of paragraph (2), for the posting of the data required pursuant to paragraph (1).

(f) The operator is responsible for compliance with this section.
(g) In developing regulations for hydraulic fracturing pursuant to subdivision (b), the supervisor shall take into consideration and document the risk posed by potential seismicity.

(h) (1) The supplier may claim trade secret protection for the chemical composition of additives pursuant to Section 1060 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code).

(2) If a supplier believes that information regarding a chemical constituent of a hydraulic fracturing fluid is a trade secret, the supplier shall nevertheless disclose the information to the division within 30 days following cessation of hydraulic fracturing on a well, and shall notify the division in writing of that belief.

(3) The supplier is not required to disclose trade secret information to the operator.

(4) This subdivision does not permit a supplier to refuse to disclose the information required pursuant to this section to the division.

(5) To comply with the public disclosure requirements of this section, the supplier shall indicate where trade secret information has been withheld and the specific name of a chemical constituent shall be replaced with the chemical family name or similar descriptor associated with the trade secret chemical information.

(6) (A) Except as provided in subparagraph (B) of paragraph (8), the division shall protect from disclosure any trade secret designated as such by the supplier, if that trade secret is not a public record.

(B) Except as provided in subparagraph (B) of paragraph (8), information claimed as trade secret is not a public record for purposes of Chapter 9.6 (commencing with Section 3250) of Division 4 of Title 1 of the Government Code.

(7) The supplier shall notify the division in writing within 30 days of any changes to information provided to the division to support a trade secret claim.

(8) Upon receipt of a request for the release of information to the public, which includes information the supplier has notified the division is a trade secret and is not a public record, the following procedure applies:

(A) The division shall notify the supplier of the request in writing by certified mail, return receipt requested.
(B) The division shall release the information to the public, but not earlier than 60 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 60-day period, the supplier obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection or for a preliminary injunction prohibiting disclosure of the information to the public and provides notice to the division of that action.

(9) Except as provided in subparagraph (B) of paragraph (8), trade secret information is not a public record and shall not be disclosed to anyone except to an officer or employee of the division, the state, or the United States, in connection with the official duties of that officer or employee, to a health professional, under any law for the protection of health, or to contractors with the division or the state and its employees if, in the opinion of the division, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect health and safety.

(10) Except as provided in subparagraph (B) of paragraph (8), an officer or employee of the division or former officer or employee who, by virtue of that employment or official position, has possession of, or has access to, any trade secret subject to this section, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, is guilty of a misdemeanor. A contractor of the division and any employee of the contractor who has been furnished information as authorized by this section shall be considered an employee of the division for purposes of this section.

(11) In the event of exposure to hydraulic fracturing fluids necessitating medical care, the person receiving the care shall have the right to petition the division to disclose relevant trade secret information in order to receive appropriate medical care.

(i) This section does not apply to routine tests to monitor the integrity of wells and well casings.

(j) A well granted confidential status pursuant to Section 3234 shall not be required to comply with the public disclosure of hydraulic fracturing fluids pursuant to subdivision (e) until the confidential status of the well ceases.
(k) (1) Whenever it appears that any person is violating or threatening to violate any provision of this section, the supervisor may bring suit against the person in the superior court of any county where the violation occurs or is threatened, to restrain the person from continuing the violation or from carrying out the threat of violation. Upon the filing of the suit, summons issued to the person may be directed to the sheriff or his or her deputies. In the suit, the court has jurisdiction to grant to the supervisor any final prohibitory and mandatory injunctions that the facts warrant.

(2) If the supervisor fails to bring suit to enjoin a violation or threatened violation of any provision of this section, or any rule, regulation, or order of the supervisor within 30 days after receipt of written request to do so by any person who is or will be adversely affected by the violation, the person making the request may bring suit in the person’s own behalf to restrain the violation or threatened violation in any court in which the supervisor might have brought suit. If in the suit, the court holds that injunctive relief should be granted, the supervisor shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the supervisor had at all times been the plaintiff.

(3) A civil action for damages shall not lie against any person for the violation of this section or any rule, regulation, or order of the supervisor issued to implement or enforce this section. If the supervisor brings a suit or action pursuant to paragraph (1), a defendant or intervenor shall not cross-complain or otherwise bring an action in the same proceeding against any other person for damages or for any other purpose.

3158. (a) Within 60 days after the date of cessation of hydraulic fracturing, the owner or operator shall file with the district deputy, in a form approved by the supervisor, true copies of the log, core record, and history of work performed, and, if made, true and reproducible copies of all electrical, physical, or chemical logs, tests, or surveys. Upon a showing of hardship, the supervisor may extend the time within which to comply with this section for a period not to exceed 60 additional days.

(b) The supervisor shall include information provided pursuant to subdivision (e) of Section 3157 on existing publicly accessible maps on the division’s Internet Web site, and make the information available such that hydraulic fracturing and related information
are associated with each specific well. If data are reported on an
Internet Web site not maintained by the division pursuant to
paragraph (2) of subdivision (e) of Section 3157, the division shall
provide electronic links to that Internet Web site. The public shall
be able to search and sort the hydraulic fracturing and related
information by at least the following criteria:

(1) Geographic area.
(2) Additive.
(3) Chemical constituent.
(4) Chemical Abstract Service number.
(5) Time period.
(6) Operator.

(c) On or before January 1, 2016, and annually thereafter, the
supervisor shall prepare and transmit to the Legislature a
comprehensive report on hydraulic fracturing in the exploration
and production of oil and gas resources in California. The report
shall include aggregated data of all of the information required to
be reported pursuant to Section 3157 reported by district, county,
and operator. The report also shall include relevant additional
information, as necessary, including, but not limited to, all the
following:

(1) Aggregated data detailing the disposition of any produced
water from wells that have undergone hydraulic fracturing.
(2) Aggregated data detailing the names and locations of seismic
faults within a distance from the well bore in any direction equal
to five times the fracture zone length and the names and locations
of seismic faults whose movement is reasonably anticipated to
impact the integrity of the well, well casing, and oil and gas
formation.
(3) The number of emergency responses to a spill or release.
(4) Aggregated data detailing the number of times trade secret
information was not provided to the public, by county and by each
company, in the preceding year.
(5) Data detailing the loss of well and well casing integrity in
the preceding year for wells that have undergone hydraulic
fracturing treatment. For comparative purposes, data detailing the
loss of well and well casing integrity in the preceding year for all
wells shall also be provided. The cause of each well and well casing
failure, if known, shall also be provided.
(d) The report shall be made publicly available and an electronic version shall be available on the division’s Internet Web site.

(e) (1) The requirement for submitting a report imposed under subdivision (c) is inoperative on January 1, 2020, pursuant to Section 10231.5 of the Government Code.

(2) A report to be submitted pursuant to subdivision (c) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 2. Section 3213 of the Public Resources Code is amended to read:

3213. The history shall show the location and amount of sidetracked casings, tools, or other material, the depth and quantity of cement in cement plugs, the shots of dynamite or other explosives, and the results of production and other tests during drilling operations. *All data on hydraulic fracturing treatments pursuant to Section 3157 shall be recorded in the history.*

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.